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Public Disclosure  
Commission

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September 22, 2008

**VIA FEDERAL EXPRESS**

Philip E. Stutzman  
Director of Compliance  
711 Capitol Way, Rm 206  
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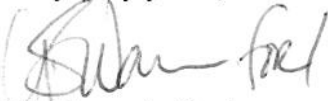
**Re: Complaint Against the Public Utility District No. 1 of Skagit County for Violations of RCW 42.17**

Dear Mr. Stutzman:

Enclosed is a Complaint against the Public Utility District No. 1 of Skagit County ("Skagit County PUD") for violations of the Public Disclosure Act, Ch. 42.17 RCW, submitted pursuant to WAC 390-37-040. Also enclosed are Exhibits A and B to the Complaint.

Please let me know if you have any questions.

Very truly yours,



Markham A. Quehrn

MAQ:GSW  
Enclosures

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Commission

STATE OF WASHINGTON  
BEFORE THE PUBLIC DISCLOSURE COMMISSION

IN RE COMPLIANCE  
WITH RCW 42.17

PDC Case No.

Public Utility District No. 1 of  
Skagit County

COMPLAINT

Puget Sound Energy, Inc. ("PSE"), by and through undersigned counsel, brings the following Complaint against the Public Utility District No. 1 of Skagit County ("Skagit County PUD") pursuant to Chapter 42.17 RCW and WAC 390-37-040, and pleads as follows:

**I. PARTIES AND AUTHORITY**

1.1 The Public Disclosure Commission (the "PDC" or "Commission") has authority to investigate complaints made under RCW 42.17 *et seq.* and to enforce its provisions. *See* RCW 42.17.350; 42.17.360.

COMPLAINT – 1

1 1.2 Skagit County PUD is a municipal corporation of the State of Washington,  
2  
3 and is a public agency for purposes of the Public Disclosure Act (the "Act").  
4

## 5 II. SKAGIT COUNTY PUD VIOLATIONS

6  
7 2.1 Skagit County PUD has committed violations of RCW 42.17.130, which  
8  
9 prohibits a public agency from using or authorizing the use of public facilities for the  
10  
11 "promotion of or opposition to any ballot proposition"<sup>1</sup> as follows:  
12  
13

14 2.2 Skagit County PUD violated RCW 42.17.130 when it used public funds and  
15  
16 facilities to prepare and distribute a newsletter to promote the upcoming ballot measure  
17  
18 wherein the voters of Skagit County will decide whether to allow Skagit County PUD to  
19  
20 seize a portion of PSE's electric facilities. Beginning in mid-July 2008, Skagit County PUD  
21  
22 used public facilities to produce and distribute a newsletter for the purpose of promoting an  
23  
24 upcoming 2008 general election ballot measure. See **Exhibit A**, a true and correct copy of  
25  
26 the Skagit Public Utility District *Pipeline* Newsletter for Skagit Public Utility District  
27  
28 Customers, Summer 2008.  
29  
30  
31  
32  
33  
34

35 <sup>1</sup> The Act defines "ballot proposition" as "any measure . . . proposed to be submitted to the  
36 voters . . . from and after the time when the proposition has been initially filed with the appropriate  
37 election officer of that constituency prior to its circulation for signatures." RCW 42.17.020(4). The  
38 statute seems to assume commencement of the ballot measure process via a citizen petition and not  
39 by a resolution. When measures are initiated by citizen petition, the statute would be triggered early  
40 on in the process, i.e., upon filing the petition with the county auditor to approve the petition form  
41 before collecting signatures. Here, Skagit County PUD's ballot measure was not circulated as a  
42 petition, but instead was adopted by the Skagit County PUD's Board of Commissioners ("Skagit  
43 County PUD Board") as a resolution on July 29, 2008. As such, this Commission should find that  
44 the measure was a "ballot proposition" for purposes of the Act from the time it was presented to the  
45 Skagit County PUD Board for discussion earlier this year, because it was the Skagit County PUD  
46 Board – not the citizens – who decided at these early meetings whether to present the resolution to  
47 the voters.

1           2.3     The *Pipeline* newsletter presents inaccurate, one-sided information in an  
2  
3 attempt to persuade voters to vote "yes" on the upcoming Skagit County ballot proposition.  
4  
5 It is not objective, fair, or accurate as required under the Act. *See* WAC 390-05-271. It  
6  
7 does not simply recite the facts for the voting public, but instead presents a slanted view in  
8  
9 favor of Skagit County PUD's takeover of PSE's electrical service and assets in Skagit  
10  
11 County. The newsletter does not accurately present the costs and other impacts of the ballot  
12  
13 measure. Skagit County PUD grossly underestimates the costs of condemning PSE facilities  
14  
15 and grossly overestimates the customer savings. Finally, the timing of the newsletter is  
16  
17 definitely of import as it was originally distributed immediately before the Skagit County  
18  
19 PUD Board voted on the resolution and only a few months from the general election.  
20  
21  
22

23           2.4     The information was not presented in a manner that is normal and regular for  
24  
25 the agency. *See* RCW 42.17.130(3). Instead, it was presented as propaganda for the  
26  
27 upcoming election.  
28  
29

30           2.5     Furthermore, Skagit PUD continues to be in violation of RCW 42.17.130  
31  
32 because as of September 3, 2008, the newsletter was still available to the public at Skagit  
33  
34 County PUD's office. *See* Declaration of Kristine R. Wilson dated September 22, 2008,  
35  
36 attached as **Exhibit B**.  
37  
38  
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47

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Public Disclosure  
Commission**III. PRAYER FOR RELIEF**

WHEREFORE, PSE prays for relief as follows:

3.1 For this Commission to investigate the allegations made in this Complaint and to enforce the provisions of the Act against Skagit County PUD as the Commission deems just and equitable under the circumstances; and

3.2 For such other and further relief as the Commission may deem just and equitable under the circumstances.

DATED: September 22, 2008

**PERKINS COIE LLP**

By: 

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